

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-1544V

Filed: December 7, 2016

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NANCY CONLEY, * UNPUBLISHED

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Petitioner, * Special Master Gowen

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v. * Attorneys' Fees and Costs

SECRETARY OF HEALTH
AND HUMAN SERVICES,

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*

Respondent. *

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Jeffrey S. Pop, Jeffry S. Pop, Attorney at Law, Beverly Hills, CA, for petitioner.

Sarah C. Duncan, United States Department of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

On December 17, 2015, Nancy Conley (“petitioner”) filed a petition pursuant to the National Vaccine Injury Compensation Program.² 42 U.S.C. §§ 300aa-10 to 34 (2012). Petitioner alleged that as a result of receiving an influenza (“flu”) vaccination on October 6, 2014, she developed Bell’s Palsy. Petition at Preamble. On November 18, 2016, the parties filed a stipulation in which they stated that a decision should be entered awarding compensation, and decision awarding petitioner compensation pursuant to the terms of the parties’ stipulation was issued that same day.

¹ Because this decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this ruling on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b).

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2012) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

On December 2, 2016, petitioner filed an application for attorneys' fees and costs, requesting stating that petitioner incurred \$16,652.00 in attorneys' fees and \$568.91 in attorneys' costs, for a total of \$17,220.91 in attorneys' fees and costs. Petitioner's ("Pet.") Application ("App.") at 1. In accordance with General Order #9, petitioner submitted a signed statement that petitioner did not incur any fees or costs related to the prosecution of this petition. General order #9 Statement. On December 7, 2016, respondent filed a response to petitioner's application, stating that respondent "does not object to the overall amount sought." Respondent noted that her "lack of objection to the amount sought in this case should not be construed as admission, concession, or waiver as to the hourly rates requested, the number of hours billed, or the other litigation related costs." Respondent's Response.

The Vaccine Act permits an award of reasonable attorneys' fees and costs under 42 U.S.C. section 300aa-15(e). Based on the reasonableness of petitioners' request and the lack of objection by respondent, the undersigned **GRANTS** the request for approval and payment of attorneys' fees and costs, pursuant to 42 U.S.C. § 300 aa-15(e).

An award should be made as follows:

- (1) **A lump sum of \$17,220.91, payable jointly to petitioner and petitioner's counsel, Jeffrey S. Pop, of Jeffry S. Pop, Attorney at Law, for attorneys' fees and costs.**

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court **SHALL ENTER JUDGMENT** in accordance herewith.³

IT IS SO ORDERED.

s/ Thomas L. Gowen

Thomas L. Gowen

Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.